

BEST AVAILABLE COPY

Jan-12-06 07:58pm From:morgan & finnegan llp

2127516849

T-732 P.001/021 F-973

Morgan & Finnegan, L.L.P.

A Registered Limited Liability Partnership

3 WORLD FINANCIAL CENTER

NEW YORK, NY 10281-2101

TEL: 212-415-8700

FAX: 212-415-8701

RECEIVED
CENTRAL FAX CENTER

JAN 12 2006

FAX COVER SHEET

TO	COMPANY	PHONE	FAX
EXAMINER ASHLEY	GAU 3724	USPTO	

FROM: KEITH MCWHHA 212-415-8705	DATE: 1/12/06
IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL:	CLIENT/MATTER: 4757-4143US1 (10/627,003)
CONFIRM:	PAGES (INCLUDING COVER): 21 PAGES

COMMENTS:

URGENT

FOR FILING AND ENTRY

THE DOCUMENT(S) ACCOMPANYING THIS FACSIMILE TRANSMISSION CONTAINS INFORMATION FROM THE LAW FIRM OF MORGAN & FINNEGAN, L.L.P. WHICH IS CONFIDENTIAL AND/OR LEGALLY PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ON THIS TRANSMISSION SHEET. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS FAXED INFORMATION IS STRICTLY PROHIBITED, AND THE DOCUMENT(S) SHOULD BE RETURNED TO THIS FIRM IMMEDIATELY. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY SO THAT WE CAN ARRANGE FOR THE RETURN OF THE ORIGINAL DOCUMENTS AT NO COST TO YOU.

RECEIVED
CENTRAL FAX CENTER

JAN 12 2006

Docket No. 4757-4143US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Darryl C. Stein et al.

Serial No.: 10/627,003

Group Art Unit: 3724

Filed: July 25, 2003

Examiner: Ashley, Boyer Dolinger

For: APPARATUS FOR CUTTING AND CREATING NOTCHES
AND APERTURES IN SHEET-TYPE WORK MATERIALCommissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450CERTIFICATE OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the attached:

1. Request for Correction of Inventorship under 37 CFR §1.48(a)
2. Declaration of Inventor Pursuant to Petition to Correct Inventorship under Rule 1.48(a) executed by M. Shawn Cole
3. Executed Declaration document executed by Darryl C. Stein and M. Shawn Cole (9 pages)
4. Consent of Assignee Gerber Technology, Inc. under 37 CFR §1.48(a) to Add M. Shawn Cole as Co-Inventor executed by John R. Hancock
5. Statement under 37 CFR 3.73(b) executed by John R. Hancock
6. Copy of executed Assignment transferring rights of Darryl C. Stein to Gerber Technology, Inc.
7. Copy of executed Assignment transferring rights of M. Shawn Cole to Gerber Technology, Inc.

are being transmitted on the date shown below to Examiner Boyer Dolinger Ashley of Group No.3724 at the following facsimile numbers: 571-273-8300 and 571-273-4502 at the request of the above-mentioned Examiner.Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.Dated: January 12, 2006By: Keith J. McWha
Registration No. 44,235Correspondence Address:MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

967413 v1

RECEIVED
CENTRAL FAX CENTER

JAN 12 2006

Docket No. 4757-4143US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Darryl C. Stein ,et al.

Group Art Unit: 3724

Serial No.: 10/627,003

Examiner: Ashley, Boyer Dolinger

Filed: July 25, 2003

For: APPARATUS FOR CUTTING AND CREATING NOTCHES
AND APERTURES IN SHEET-TYPE WORK MATERIAL

REQUEST FOR CORRECTION OF INVENTORSHIP UNDER 37 §CFR 1.48(a)

Mail Stop BOX ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests correction of inventorship for the above application that had a notice of allowance and allowability mailed on September 26, 2005 and issue fee paid on December 23, 2005. Applicants submit their Request for Correction of Inventorship under 37 C.F.R. §1.48(a) and ask the PTO to consider and enter the added inventor, M. Shawn Cole, to the Letters Patent when this patent issues.

Applicants have included with this Request: (1) a statement from the added inventor that the error in inventorship occurred without deceptive intention on his part; (2) a Combined Declaration and Power of attorney by the actual inventors as required by 37 CFR § 1.63; (3) authorization to charge Deposit Account No. 13-4500, Order No. 4757-4143US1 for the processing fee set forth in 37 CFR § 1.17 (i); and (4) written consent of the assignee under 37 CFR § 3.73(b).


AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for consideration of this request to Deposit Account No. 13-4500, Order No. 4757-4143US1. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: January 12, 2006

By:


Keith J. McWha
Registration No. 44,235
(212) 415-8705 Direct Telephone

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, New York 10281
Telephone: (212) 415 8700
Facsimile: (212) 415 8701

Serial No. 10/627,003

-2-

Docket No. 4757-4143US1


AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for consideration of this request to Deposit Account No. 13-4500, Order No. 4757-4143US1. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: January 12, 2006

By:


Keith J. McWha
Registration No. 44,235
(212) 415-8705 Direct Telephone

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, New York 10281
Telephone: (212) 415 8700
Facsimile: (212) 415 8701

RECEIVED
CENTRAL FAX CENTER

U.S. Serial No. 10/627,003

DOCKET NO. 4757-4143US1

JAN 12 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Darryl C. Stein, et al.

Group Art Unit: 3724

Serial No.: 10/627,003

Examiner: Ashley, Boyer Dolinger

Filed: July 25, 2003

For: APPARATUS FOR CUTTING AND CREATING NOTCHES
AND APERTURES IN SHEET-TYPE WORK MATERIAL

Mailstop: BOX ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF INVENTOR PURSUANT TO
PETITION TO CORRECT INVENTORSHIP UNDER RULE 1.48(a)

I, M. SHAWN COLE of 35 Gehring Road Extension, Tolland, CT. 06084, declare that it was an error not to name me as an inventor in the above-referenced application, and that the error in failing to name me as an inventor arose without any deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 12-22-05

By: 

M. Shawn Cole

RECEIVED
CENTRAL FAX CENTER

Docket No. 4757-4143US1

JAN 12 2006

**COMBINED DECLARATION AND POWER OF ATTORNEY FOR
ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL,
DIVISIONAL CONTINUATION OR CONTINUATION-IN-PART APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

APPARATUS FOR CUTTING AND CREATING NOTCHES AND APERTURES IN SHEET-
TYPE WORK MATERIAL

the specification of which

- a. ☐ is attached hereto
- b. ☒ was filed on July 25, 2003 as application Serial No. 10/627,003 and was amended on
(if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

- c. ☐ was described and claimed in International Application No. filed on and
as amended on (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO:

- ☒ The address associated with the Customer Number
- OR-
- ☐ Address Shown (see below)

27123

DIRECT TELEPHONE CALLS TO:

(212) 415-8700

-i-

953118 v1

☐ I hereby claim foreign priority benefits under Title 35, United States Code § 119 (a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:

☐ The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

Country/PCT	Application Number	Date of filing (day, month, yr)	Date of issue (day, month, yr)	Priority Claimed
-------------	--------------------	---------------------------------	--------------------------------	------------------

☐ Y ☐ N

☐ Y ☐ N

☐ Y ☐ N

☒ I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

Provisional Application No.	Date of filing (day, month, yr)
-----------------------------	---------------------------------

60/398,936

July 26, 2002

**ADDITIONAL STATEMENTS FOR DIVISIONAL,
CONTINUATION OR CONTINUATION-IN-PART
OR PCT APPLICATION(S) DESIGNATING THE U.S.**

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
-------------------------------	-------------	--

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
-------------------------------	-------------	--

☐ In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint:

☒ Practitioners associated with the Customer Number

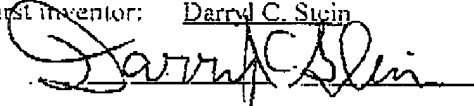
27123

-OR-

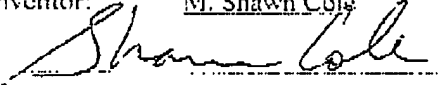
☐ Practitioner(s) named below:

Name	Registration Number

☐ I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from _____ as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents named hereinabove.

Full name of sole or first inventor: Darryl C. Stein
Inventor's signature*  12/2/2005
Residence: 530 Lake Road, Andover, CT
Citizenship: US
Post Office Address: Same as above

Date

Full name of second inventor: M. Shawn Cole
Inventor's signature*  12-2-~~06~~05^{SC}
Residence: 35 Gehring Road Extension, Tolland, CT 06084
Citizenship: US
Post Office Address: Same as above

Date

*Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and
2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.

To the inventor(s):

The following are cited in or pertinent to the declaration attached to the accompanying application:

Title 37, Code of Federal Regulation, §1.56

Duty to disclose information material to patentability

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability. A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard,

-iv-

953118 v1

giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the National or PCT international filing date of the continuation-in-part application.

Title 35, U.S. Code § 101

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Title 35 U.S. Code § 102

Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,
- (b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) The invention was described in--
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national

-v-

953118 v1

application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or

(f) he did not himself invent the subject matter sought to be patented, or

- (g) (1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Title 35, U.S. Code § 103

103. Conditions for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- (b) (1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

- (2) A patent issued on a process under paragraph (1)—

(A) shall also contain the claims to the composition of matter used in or made by that process, or

(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.

- (3) For purposes of paragraph (1), the term "biotechnological process" means—

- (A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to--
 - (i) express an exogenous nucleotide sequence,
 - (ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or
 - (iii) express a specific physiological characteristic not naturally associated with said organism;
 - (B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and
 - (C) a method of using a product produced by a process defined by subparagraph (A) or (B), or a combination of subparagraphs (A) and (B).
- (c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, U.S. Code § 112 (in part)

Specification

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Title 35, U.S. Code, § 119

Benefit of earlier filing date in foreign country; right of priority

- (a) An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.
- (b)
 - (1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.
 - (2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.
 - (3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other

-vii-

953118 v1

information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.

- (c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.
- (d) Applications for inventors' certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.
- (e) (1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.
 - (2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid.
 - (3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.
- (f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.
- (g) As used in this section--
 - (1) the term "WTO member country" has the same meaning as the term is defined in section 104(b)(2) of this title; and
 - (2) the term "UPOV Contracting Party" means a member of the International Convention for the Protection of New Varieties of Plants.

Title 35, U.S. Code, § 120

Benefit or earlier filing date in the United States

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. *No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.*

Please read carefully before signing the Declaration attached to the accompanying Application. If you have any questions, please contact Morgan & Finnegan, L.L.P.

RECEIVED
CENTRAL FAX CENTER

U.S. Serial No. 10/627,003

JAN 12 2006

DOCKET NO. 4757-4143US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Darryl C. Stein ,et al.

Group Art Unit: 3724

Serial No.: 10/627,003

Examiner: Ashley, Boyer Dolinger

Filed: July 25, 2003

For: APPARATUS FOR CUTTING AND CREATING NOTCHES
AND APERTURES IN SHEET-TYPE WORK MATERIAL

CONSENT OF ASSIGNEE
GERBER TECHNOLOGY, INC.
UNDER 37 CFR § 1.48(a) TO ADD M.SHAWN COLE AS CO-INVENTOR

Mail Stop: BOX ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

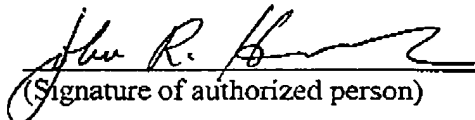
Sir:

Gerber Technology, Inc., 24 Industrial Park Road West, Tolland, CT 06084, assignee of the entire interest in the subject matter of the above-identified invention by an assignment from Darryl C. Stein and M. Shawn Cole to Gerber Technology, Inc., hereby consent to the change of inventorship in this application to add M. Shawn Cole as co-inventor.

Date:

12/30/05

By:


(Signature of authorized person)

John R. Hancock

(type or print name of authorized person)

Senior Vice President, Gerber Scientific, Inc.
President, Gerber Technology
(title of authorized person)

964105

Attorney Docket No. 4757-4143US1**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Darryl Stein et alApplication No./Patent No.: 10/627,003Filing Date: 07-25-2003Entitled: APPARATUS FOR CUTTING AND CREATING NOTCHES AND
APERTURES IN SHEET-TYPE WORK MATERIALGerber Technology, Inc., a
(Name of Assignee
university,Corporation
(Type of Assignee, e.g., corporation, partnership,
government Agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest. The extent (by percentage) of its ownership interest is _____%

in the patent application/patent identified above by virtue of:

- A. ☒ An assignment from the inventor(s) of the patent application identified above. A first assignment was recorded in the United States Patent and Trademark Office at Reel 013408 Frame 0561 having a recordation date of 10/17/2002, a second assignment duly executed by the additional inventor, Mr. M. Shawn Cole, is attached herewith.
- ☐ Additional documents in the chain of title are listed on a supplemental sheet.
- ☐ Copies of assignment or other documents in the chain of title are attached. [Note: A separate copy (i.e., a true copy of the original assignment document(s) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.


Signature12/30/05
DateJohn R. Hancock860-644-1551

Printed or Typed Name

Telephone Number

Senior Vice President, Gerber Scientific, Inc.
President, Gerber Technology
Title

Docket No. 4757-4143US1**ASSIGNMENT OF APPLICATION FOR PATENT**

WHEREAS:

M. Shawn Cole, 35 Gehring Road Extension, Tolland, CT 06084

(hereinafter referred to as ASSIGNOR(S)), has made a discovery or invention entitled:

APPARATUS FOR CUTTING AND CREATING NOTCHES AND APERTURES IN
SHEET-TYPE WORK MATERIAL

- ☒ for U.S. provisional application number 60/398,936, filed on July 26, 2002, and
- ☒ for U.S. Patent Application Serial No. 10/627,003 filed July 25, 2003

WHEREAS:

Gerber Technology, Inc., 24 Industrial Park Road West, Tolland, CT 06084

(hereinafter referred to as ASSIGNEE), is desirous of acquiring the entire interest in, to and under said invention and in, to and under Letters Patent or similar legal protection to be obtained therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN:

Be it known that for valuable consideration by ASSIGNEE to ASSIGNOR(S), the receipt of which is hereby acknowledged, ASSIGNOR(S) hereby sells, assigns and transfers to ASSIGNEE, its successors, legal representatives and assigns, the full and exclusive right, title and interest to said discovery or invention in the United States and its territorial possessions and in all foreign countries and to all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, division, renewal, substitute, reissue or reexamination thereof or any legal equivalent thereof in a foreign country for the full term or terms for which the same may be granted.

I, SAID ASSIGNOR(S), hereby authorize and request the Commissioner of Patents and Trademarks of the United States of America and any Official of any country or countries foreign to the United States of America whose duty it is to issue Letters Patent on applications as aforesaid, to issue all such Letters Patent for said discovery or invention to the ASSIGNEE, as assignee of the entire right, title and interest in, to and under the same, for the sole use and behalf of the ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

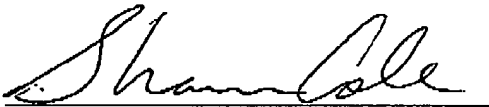
I, SAID, ASSIGNOR(S), hereby covenant that I have full right to convey the entire right, title and interest herein sold, assigned, transferred and set over;

953116 v1

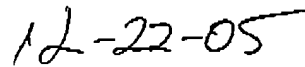
Docket No. 4757-4143US1

AND I, SAID ASSIGNOR(S) hereby further covenant and agree that the ASSIGNEE, its successors, legal representatives, or assigns, may apply for foreign Letters Patent on said discovery or invention and claim the benefits of the International Convention, and that I will, at any time, when called upon to do so by the ASSIGNEE, its successors, legal representatives, or assigns, communicate to the ASSIGNEE, its successors, legal representatives, or assigns, as the case may be, any facts known to me respecting said discovery or invention, and execute and deliver any and all lawful papers that may be necessary or desirable to perfect the title to the said discovery or invention, the said applications and the said Letters Patent in the ASSIGNEE, its successors, legal representatives and assigns, and that if reissues or reexaminations of the said Letters Patent or disclaimers relating thereto, or divisions, continuations, or refilings of the said applications, or any thereof, shall hereafter be desired by the ASSIGNEE, its successors, legal representatives, or assigns, I will, at any time, when called upon to do so by the ASSIGNEE its successors, legal representatives, or assigns, sign all lawful papers, make all rightful oaths, execute and deliver all such disclaimers and all divisional, continuation, reissue and reexamination applications so desired, and do all lawful acts requisite for the application for such reissues and the procuring thereof and for the filing of such disclaimers and such applications, and generally do everything possible to aid the ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said invention or discovery in all countries, all without further compensation but at the expense of the ASSIGNEE, its successors, legal representatives and assigns.

Signed:



M. Shawn Cole



Date

ASSIGNMENT

THIS INSTRUMENT OF ASSIGNMENT WITNESSETH THAT:

WHEREAS, I, Darryl C. Stein, resident of 530 Lake Road, Andover, CT, 06232, respectively have invented improvements in

**APPARATUS FOR CUTTING AND CREATING NOTCHES AND
APERTURES IN SHEET-TYPE WORK MATERIAL**

for which I on July 26, 2002 filed Provisional Application Serial No: 60/398,936 for Letters Patent of the United States, and

WHEREAS,	Gerber Technology, Inc.
a corporation of the State of	Connecticut
having a place of business at	24 Industrial Park Road West Tolland, CT 06084

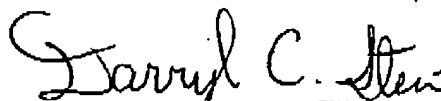
is desirous of acquiring an interest in said invention, said application and the Letters Patent to be issued therefor;

NOW, THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of ONE DOLLAR to each in hand paid and other good and valuable consideration, the receipt whereof is hereby acknowledged, I have sold, assigned and set over, and do hereby sell, assign and set over to said corporation, its successors or assigns, the entire right, title and interest to and in said invention in the United States and in all foreign countries, said United States application for Letters Patent therefor and the Letters Patent when issued; and I do hereby authorize and request the Commissioner of Patent and Trademarks to issue the Letters Patent based upon said application to said corporation as the assignees of my entire right, title and interest to and in the same, for the sole use and behoof of said corporation, its successors or assigns.

And I also hereby covenant and agree to sign all proper papers including divisional and other applications for patents and assignments thereof in the United States and application for patents and assignments in all foreign countries, and to execute all rightful oaths and to take any other proper action that may in the judgment of the said corporation be necessary for securing thereto full rights to said invention, all of the foregoing to be at the expense of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand this _____

2nd day of October, 2002.



Darryl C. Stein

STATE OF Connecticut)
COUNTY OF) ss:
)

On this _____ day of _____, 2002, before me, the subscriber, personally came Darryl C. Stein to me known and known to be the same person described in and who executed the foregoing instrument, and duly acknowledged that he executed the same.

Notary Public

[SEAL]

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.